

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GEOFFREY NELS FIEGER

Plaintiff,

CIVIL ACTION NO. 08-CV-14125

vs.

HON. DAVID M. LAWSON

FEDERAL ELECTION COMMISSION,

Defendant.

FIRST AMENDED COMPLAINT FOR INJUNCTIVE RELIEF

NOW COMES Plaintiff, Geoffrey N. Fieger, by and through counsel, and files his First Amended Complaint against the Federal Election Commission to order the production of agency records which Defendant Federal Election Commission has failed to provide pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the Administrative Procedures Act, 5 U.S.C. § 701 *et. seq.* Plaintiff further states the following:

1. Plaintiff, Geoffrey N. Fieger, is a duly licensed attorney who resides within the geographical boundaries of the Eastern District of Michigan.
2. On multiple occasions, Mr. Fieger has accused the Bush Justice Department of conspiring with the Federal Election Commission to politicize the enforcement of federal campaign finance laws.
3. During the relevant times in question, the Federal Election Commission was headed by Chairman Michael E. Toner who was appointed by President George W. Bush. Prior to his appointment by President Bush, Toner served as Chief Counsel to the Republican National Committee, and prior to that Mr. Toner served as General Counsel of the Bush-Cheney Transition

Team and General Counsel of the Bush-Cheney 2000 Presidential Campaign.

4. This Court has jurisdiction over this act pursuant to 5 U.S.C. § 552 *et. seq.*, 28 U.S.C. § 1331, and 5 U.S.C. § 701 *et. seq.*

5. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

Plaintiff's FOIA Request Dated July 3, 2008

6. Pursuant to the Freedom of Information Act, Plaintiff Fieger by and through his undersigned counsel, requested, by letter dated July 3, 2008, documents, memoranda, correspondences, and e-mails relating to the enforcement of federal campaign finance laws sent between White House officials and Federal Election Commission employees including Chairman Toner (**See Exhibit A**).

7. The documents sought by Plaintiff are in the possession of the Federal Election Commission, an agency of the United States and are subject to the provisions of the Freedom of Information Act.

8. Defendant Federal Election Commission failed to provide any such documents within the time permitted under 5 U.S.C. § 552 *et. seq.*, and thus Plaintiff is deemed to have exhausted his administrative remedies under the Act.

9. Plaintiff Fieger has a right of access to the requested information under 5 U.S.C. § 552, and there is no legal basis for Defendant's failure to comply with federal law.

Plaintiff's FOIA Request Dated October 27, 2008

10. Pursuant to the Freedom of Information Act, Plaintiff Fieger by and through his

undersigned counsel, again requested, by letter dated October 27, 2008, documents, memoranda, correspondences, and e-mails of *communications* between White House officials and Federal Election Commission employees and/or agents including Chairman Toner (**See Exhibit B**).

11. By letter dated December 3, 2008, Defendant Commission exercised its right to extend its response time to Plaintiff's FOIA request until December 17, 2008.

12. By letter dated December 17, 2008, Defendant Commission requested from Plaintiff another extension of time in which to respond to Plaintiff's FOIA request. Plaintiff agreed to extend Defendant Commission's response time until December 31, 2008.

13. On December 31, 2008, Defendant Commission advised Plaintiff that it was unable to comply fully with its response deadline.

14. Having failed to comply with the applicable time limits of the Act, Plaintiff is deemed to have exhausted his administrative remedies.

15. Plaintiff Fieger has a right of access to the requested information under 5 U.S.C. § 552, and there is no legal basis for Defendant's failure to comply with federal law.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests this Court:

- (1) Order Defendant to provide access to the requested documents;
- (2) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- (3) Award Plaintiff costs and reasonable attorney fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and

(4) Grant such other and further relief as it may deem just and proper.

Respectfully submitted,

/s/ Michael R. Dezsi

MICHAEL R. DEZSI (P64530)

Attorney for Plaintiffs

19390 W. Ten Mile Road

Southfield, MI 48075

(248) 355-5555

m.dezsi@fiegerlaw.com

Dated: February 9, 2009

INDEX OF EXHIBITS

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	FOIA Request letter dated 07/03/08
B	FOIA Request letter dated 10/27/08

Exhibit A

FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS AT LAW

19390 WEST TEN MILE ROAD

SOUTHFIELD, MICHIGAN 48075-2463

TELEPHONE (248) 355-5555

FAX (248) 355-5148

WEBSITE: www.fiegerlaw.com

E-MAIL: info@fiegerlaw.com

DIRECT DIAL (248) 355-3911

E-MAIL: m.dezsi@fiegerlaw.com

MICHAEL R. DEZSI

July 3, 2008

CERTIFIED MAIL

Federal Election Commission
Attn: Candace J. Salley
Room 408
999 E. Street, N.W.
Washington, D.C. 20463

Re: FOIA Request

Dear Ms. Salley:

Pursuant to the Freedom of Information Act, I am hereby requesting the following:

1. Any and all documents of any kind, including, but not limited to, memoranda, correspondence and e-mails dated from January 2001 through the present between officials, agents and/or employees of the FEC and officials, agents and/or employees of the Department of Justice relating to possible violations of the Federal Election Campaign Act by the law firm of Fieger, Fieger, Kenney & Johnson, P.C., including its partners, employees, contractors, associates, and their children and spouses.
2. Any and all documents of any kind, including, but not limited to, memoranda, correspondence and e-mails dated from January 2001 through the present between (to/from) FEC officials, employees or agents, including former FEC Chairman Michael E. Toner, and White House officials, employees or agents, including former White House Aide Karl Rove and former White House Counsel Harriet Miers, or their agents and/or assistants, relating in any way to enforcement of federal criminal statutes, including, but not limited to, the Federal Election Campaign Act.

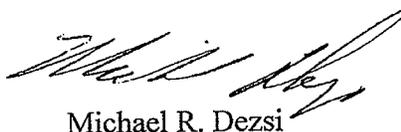
FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX

Federal Election Commission
July 3, 2008
Page Two

I look forward to your prompt response consistent with the requirements of the Freedom of Information Act. Please do not hesitate to contact me with any questions. Thank you for your kind attention to this matter.

Very truly yours,

FIEGER, FIEGER, KENNEY, JOHNSON
& GIROUX, PC



Michael R. Dezsi

MRD/jn

Exhibit B

FIEGER, FIEGER, KENNEY, JOHNSON & GIROUX

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS AT LAW

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TELEPHONE (248) 355-5555

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WEBSITE: www.fiegerlaw.com

E-MAIL: info@fiiegerlaw.com

MICHAEL R. DEZSI

October 27, 2008

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Federal Election Commission
Attn: Candace J. Salley
Room 408
999 E. Street, N.W.
Washington, D.C. 20463

Re: FOIA Request

Dear Ms. Salley:

Pursuant to the Freedom of Information Act, I am hereby requesting the following:

1. Any and all documents of any kind, including, but not limited to, memoranda, correspondence and e-mails dated from January 2001 through the present between (to/from) FEC officials, employees or agents, including former FEC Chairman Michael E. Toner, and White House officials, employees or agents, including former White House Aide Karl Rove and former White House Counsel Harriet Miers, or their agents and/or assistants, including any and all present and/or former employees and/or agents of the Executive Office of the President and/or Vice President.

I look forward to your prompt response consistent with the requirements of the Freedom of Information Act. Please do not hesitate to contact me with any questions. Thank you for your kind attention to this matter.

Very truly yours,

FIEGER, FIEGER, KENNEY, JOHNSON
& GIROUX, PC



Michael R. Dezsi

MRD/vgb

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